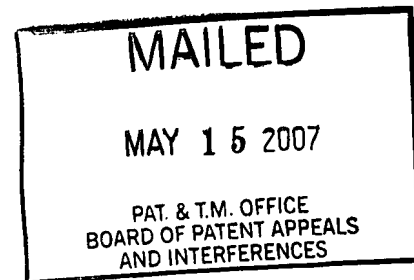


UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES



Ex parte MICHAEL G. PHILLIPS, CHAPMAN M. FINDLAY III,
STEPHEN A. KLEIN, WILLIAM P. JENNINGS, and MARK E. RICE

Application No. 09/615,021

ORDER RETURNING UNDOCKETED APPEAL TO EXAMINER

This application was electronically received at the Board of Patent Appeals and Interferences on April 4, 2007. A review of the application has revealed that the application is not ready for docketing as an appeal.

Accordingly, the application is herewith being returned to the examiner.

The matter requiring attention prior to docketing is identified below.

A review of the file indicates that the appeal brief filed January 24, 2006 does not fully comply with 37 CFR § 41.37(c).

37 CFR § 41.37(c) states in part:

(c)(1) The brief shall contain the following items under appropriate headings and in the order indicated in paragraphs (c)(1)(i) through (c)(1)(x) of this section, except that a brief

filed by an appellant who is not represented by a registered practitioner need only substantially comply with paragraphs (c)(1)(i) through (c)(1)(iv) and (c)(1)(vii) through (c)(1)(x) of this section:

(v) *Summary of claimed subject matter.* A concise explanation of the subject matter defined in each of the independent claims involved in the appeal, which shall refer to the specification by page and line number, and to the drawing, if any, by reference characters. For each independent claim involved in the appeal and for each dependent claim argued separately under the provisions of paragraph (c)(1)(vii) of this section, every means plus function and step plus function as permitted by 35 U.S.C. 112, sixth paragraph, must be identified and the structure, material, or acts described in the specification as corresponding to each claimed function must be set forth with reference to the specification by page and line number, and to the drawing, if any, by reference characters.

A review of the file reveals that the Summary of Claimed Subject Matter section of the appeal brief filed January 24, 2006 is defective. The explanation of independent claims 1, 37, and 39 do not refer to page and line number in the specification and/or reference characters to the drawings.


Correction is required. MPEP § 1205.03 states:

When the Office holds the brief to be defective solely due to appellant's failure to provide a summary of the claimed subject matter as required by 37 CFR 41.37(c)(1)(v), an entire new brief need not, and should not, be filed. Rather, a paper providing a summary of the claimed subject matter as required by 37 CFR 41.37(c)(1)(v) will suffice. Failure to timely respond to the Office's requirement will result in dismissal of the appeal. See MPEP § 1215.04 and §711.02(b).

Accordingly, it is ORDERED that the application is returned to the Examiner to:

- 1) hold the Appeal Brief filed on January 24, 2006, defective;
- 2) notify appellants to file a paper providing a summary of the claimed subject matter as required by 37 CFR 41.37(c)(1)(v);
- 3) consider the paper providing a summary of the claimed subject matter as required by 37 CFR 41.37(c)(1)(v) and;
- 4) for such further action as may be appropriate.

BOARD OF PATENT APPEALS
AND INTERFERENCES

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PJN/tdl